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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,302	02/01/2002	Jason Annes	1247 P 185	2560

7590 11/10/2003

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/062,302

Applicant(s)

ANNES ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 29-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Election/Restrictions

Applicant's election without traverse of Invention Group I and Species Group I in Paper No. 8 is acknowledged. Accordingly, claims 29-35 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "is provided" on line 1 can be easily implied and therefore should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a front face to a rear face" on line 5 of claim 1 render the claims indefinite because it is unclear what element includes the faces the applicant is referring to. Recitations such as "the lateral cross member" on line 2 of claim 11 render the claims indefinite because they lack antecedent basis. Recitations such as "between the arcuate surface and the flat with the brake member" on lines 2-3 of claim 14 render the claims indefinite because they are grammatically awkward and confusing.

Recitations such as "the side openings" on lines 3-4 of claim 14 render the claims indefinite because they lack antecedent basis. Note that the applicant has set forth only one side opening in claim 1. Recitations such as "the first segment" on line 4 of claim 17 render the claims indefinite because it is unclear which one of the first segments set forth above the applicant is referring to. Recitations such as "the opposed side walls" on line 8 of claim 17 render the claims indefinite because it is unclear how one braking surface can engage both of the side walls.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt et al. '783. Schmidt et al. '783 discloses a brake assembly for locking a slidable sash window 16 within a track 18 of a frame 12, the track having a pair of spaced apart, opposed sidewalls (not numbered, but shown in figure 8), the assembly comprising a sliding body 24 adapted for slidable motion within the track, the slider body having a central opening 30 extending from a front face (not numbered, but seen in figure 2) to a rear face (not numbered, but seen in figure 2) and having a side opening 27 adjacent to the central opening, a brake member 34 comprising a spring having a braking surface (not numbered, but comprising the surface supporting the serrations 35), the brake member mounted within the slide body such that the braking surface is adapted for reciprocal lateral movement through the side opening, a cam 31 positioned in the central opening, wherein the slide body receives and retains the brake member and the cam is rotatably in the central opening for laterally biasing the braking surface for movement through the side opening wherein the braking surface is adapted to frictionally engage one of the opposed side walls, a second brake surface (not numbered, but comprising the surface supporting the serrations 35) and a second side opening 27 (claim 2), the spring 34 comprising a first segment (not numbered, but comprising the portion of the spring extending upwardly from the lowermost curve) and a second segment (not numbered, but comprising the lowermost curve) (claim 3), the braking surface includes 3 pair of serrations shown in figure 9 wherein the first pair comprises the upper most serrations, a plurality of retaining tabs (not numbered, but comprising the flat portions extending upwardly from the central opening 30 as shown in

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figure 2) (claims 9, 11 and 12), a lateral cross member (not numbered, but shown in figure 2) and a base portion (not numbered, but comprising the generally horizontal portion of the spring joining both sides of the spring together (claim 10), the cam has a nipple 38 (claim 13).

It is suggested that the applicant recite the plurality of serrations mounted on the convex outer surface of the second segment to better define the invention and possibly define the invention over the prior art of record.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maier, Marshik, Schmidt et al. '467 and Guillemet et al. are cited for disclosing a spring brake member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish extending from the end.

Gregory J. Strimbu

Primary Examiner

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October 31, 2003